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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 03/02/15  
**LAST UPDATED** 03/03/15    **HB** \_\_\_\_\_

**SPONSOR**    Sanchez, M

**SHORT TITLE**    Local Liquor Excise Tax & Rates    **SB** 608

**ANALYST**    Dorbecker

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
	\$41,395.0	\$41,921.0	\$42,460.0	\$42,478.0	Recurring	Direct Program Services
	(\$60.5)	(\$61.0)	(\$61.5)	(\$62.0)	Recurring	TRD Operating

Parenthesis ( ) indicate revenue decreases

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$140.0	\$140.0	\$280.0	Nonrecurring	TRD Operating

Parenthesis ( ) indicate expenditure decreases

Relates to HB 204, HB 215, HB 491, HB 581, SB 265, SB 346, SB 586, SB 669

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)  
 Department of Finance and Administration (DFA)  
 Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 608 amends the Tax Administration Act by modifying the definition of “county” allowing all counties to impose a liquor excise tax with voter approval. Under current law, only Class B counties with populations between 56,000 and 75,000 and with a net taxable value between \$500 million and \$800 million can impose the local liquor excise tax.

The bill also proposes to amend the Municipal and County Gross Receipts Tax on Liquor Act,

Section 7-24-10 NMSA 1978 to replace the language authorizing the local liquor excise tax and apply the tax to wholesalers rather than retailers.

The bill would add language to the Tax Administration Act to authorize the transfer of local liquor excise tax revenue to the counties for which TRD is collecting the tax. It also proposes to repeal Section 7-24-15 NMSA 1978 to remove TRD’s authority to deduct up to 5 percent of the local liquor excise tax as a charge for the administrative costs of collection.

Within the final year that a local liquor excise tax is in effect, the governing body may enact an ordinance extending the term of the tax. The process required for an election to approve the tax or an extension is clarified. If the ordinance is not approved, the governing body shall not extend the tax for one year following the election.

The bill’s proposed tax rates are grouped by category, such as spirituous liquors, wine, fortified wine, etc. No tax would be assessed on beer produced by a microbrewer or on wine produced by a small winegrower. The tax may be imposed for a maximum of 4 years as opposed to 3 years under current law. Extension of the tax shall be submitted to the voters in the same manner as the initial approval and the revenue from the local liquor excise tax shall be dedicated to “direct program services”, removing “educational programs” in the current language.

Finally, the bill proposes to have the tax revenue dedicated to fund “direct program services” for the prevention and treatment, including social detoxification, of alcoholism and drug abuse within the county and no other purpose. This would be a slight change to the current use of the revenue for McKinley County, once that county reauthorizes its Local Liquor Excise Tax ordinance. Table 1 shows the maximum local liquor excise tax rates for counties identified on page 6, Subsection B.

**Table 1.**

<b>Liquor</b>	<b>Max Proposed Local Liquor Excise Tax</b>	<b>State Liquor Excise Tax (Current Law)</b>
Spirituous liquors	\$1.08 per liter	\$1.60 per liter
Beer (except beer produced by a microbrewer)	\$0.51 per gallon	\$0.41 per gallon
Beer produced by a microbrewer	No Tax	\$0.08 per gallon up to 10,000 gallons; \$0.28 per gallon for all barrels sold over 10,000 but fewer than 15,000
Wine (except fortified wine and wine produced by a small winegrower)	\$0.36 per liter	\$0.45 per liter
Fortified wine	\$0.54 per liter	\$1.50 per liter
Wine produced by a small winegrower	No Tax	\$0.10 per liter on first 80,000 liters; \$0.20 per liter between 80,000 and 950,000 liters; \$0.30 per liter between 950,000 and 1.5 million liters
Cider	\$0.72 per gallon	\$0.41 per gallon

The bill adds definitions of beer, cider, fortified wine, microbrewer, small winegrower, spirituous liquor, wine, and wholesaler.

The effective date of this bill is July 1, 2015.

## **FISCAL IMPLICATIONS**

Analysis from TRD shows the bill's potential full year revenue impact beginning in FY 2016 based on the consensus revenue February 2014 alcoholic beverage volumes forecast for the state liquor excise tax, less revenue loss subject to changes on McKinley County's existing tax rate of 5 percent. TRD notes imposition of a local tax for tax year 2015 would be unlikely under the requirements for public meetings and voter approval.

TRD like DFA, assume the relationship between the price of alcoholic beverages and their consumption (price elasticity of demand) would likely have a negative influence in wholesale production that would lead to a reduction in revenue collection of liquor excise taxes. TRD's estimate does not assume all counties would be expected to immediately impose the tax and the potential decrease in revenue collection would also impact distribution to beneficiaries such as the LDWI fund, the lottery tuition fund and the general fund.

## **SIGNIFICANT ISSUES**

According to DFA, currently the Local Liquor Excise Tax Act, Sections 7-24-8 through 7-24-16 NMSA, applies to only McKinley County and imposes the tax on retailers up to 6 percent of the price paid for alcoholic beverages. DFA believes the bill will allow the majority of the members elected to the governing body of every county to enact an ordinance that if approved by the voters in an election, would impose an excise tax on all wholesalers distributing alcoholic beverages to retailers doing business in that county at the rates established on page 6 of the bill.

The proposed bill also eliminates the ability of TRD to deduct an administrative fee of up to 5 percent of the tax collected.

DFA notes Section 7-17-5 NMSA imposes a state liquor excise tax on wholesalers. This tax currently supports the LDWI fund, the lottery tuition fund and the general fund. The LDWI fund is distributed to each of the counties for the purpose of prevention, enforcement, treatment, detoxification and compliance monitoring of DWI offenders.

## **ADMINISTRATIVE IMPLICATIONS**

TRD reports the bill would have a high impact in the department's Information Technology (IT) division. Changes necessary to GenTax would require an estimated 2,000 hours to complete with an estimated cost of \$140,000. The changes involve two-phases:

- Phase one would require configuration changes of tax rates of local liquor tax. Currently, there is only one liquor excise tax rate and the proposed legislation lists seven different types of liquor with different tax and distribution rates resulting from the removal of the administrative fee charged by TRD. There is a moderate IT division impact through GenTax of 400 hours with an estimated cost of \$28,000.
- Phase two represents a high IT impact with about 1,600 hours needed to complete with an estimated cost of \$112,000. According to TRD, if two or more counties enact a local liquor excise tax, a new tax program (similar to combined reporting system) of gross receipts tax would be necessary to implement the program into GenTax. Location codes would be needed to report the tax and to distribute proceeds to counties.

Because the bill repeals the administrative fee collected by TRD under current law, the changes proposed by the bill would cause the department to lose significant resources to implement and to administer local liquor excises in the state.

TRD adds the local liquor excise tax form would need to be revised to look more like the state liquor excise tax return, and a location code would need to be created for each county/location for proper administration of the tax. Further, if two or more counties agree to share the tax collected in a shared municipality, TRD would likely have to divide the money collected as per the agreement. To that effect, forms and instructions would need to be modified at a cost of \$6,000. GenTax would also need to be re-configured and the reporting requirements for distributors would increase in complexity.

## TECHNICAL ISSUES

TRD proposes to replace Section 7-24-9 (K), p. 4, lines 14-16 with the following language to read: "'small winegrower' means a person who produces less than one million five hundred thousand liters of wine in a year;" (emphasis added). This is to ensure consistency because other definitions in the bill use the word "person".

DFA notes for rate-setting purposes, there is not a county that meets the criteria as established on page 5, Section 3-A. However, using the 2014 County Classification<sup>1</sup> figures, there could be an attempt to identify a certain class B county that would qualify for the bill.

Does the bill meet the Legislative Finance Committee tax policy principles?

- 1. Adequacy:** Revenue should be adequate to fund needed government services.
- 2. Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
- 3. Equity:** Different taxpayers should be treated fairly.
- 4. Simplicity:** Collection should be simple and easily understood.
- 5. Accountability:** Preferences should be easy to monitor and evaluate

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<sup>1</sup> [http://nmdfa.state.nm.us/County\\_Classifications.aspx](http://nmdfa.state.nm.us/County_Classifications.aspx)